

SENATE BILL No. 873

April 12, 2016, Introduced by Senators JONES, O'BRIEN, SCHUITMAKER and HORN and referred to the Committee on Judiciary.

A bill to amend 1985 PA 87, entitled "William Van Regenmorter crime victim's rights act," by amending sections 16, 16a, 44, 44a, 45, and 76 (MCL 780.766, 780.766a, 780.794, 780.794a, 780.795, and 780.826), sections 16, 44, and 76 as amended by 2013 PA 139, sections 16a and 44a as amended by 2006 PA 461, and section 45 as amended by 1996 PA 562; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 16. (1) As used in this section only, "victim" means an
 2 individual who suffers direct or threatened physical, financial, or
 3 emotional harm as a result of the ~~commission of a crime.~~

4 **DEFENDANT'S COURSE OF CONDUCT.** As used in subsections (2), (3),
 5 ~~(6), (8), (9), (7), (9), (10), and (13)~~ **(14)** only, victim includes
 6 a sole proprietorship, partnership, corporation, association,

1 governmental entity, or any other legal entity that suffers direct
2 physical or financial harm as a result of ~~a crime~~. **THE DEFENDANT'S**
3 **COURSE OF CONDUCT.**

4 (2) Except as provided in subsection ~~(8)~~, **(9)**, when sentencing
5 a defendant convicted of a crime, the court shall order, in
6 addition to or in lieu of any other penalty authorized by law or in
7 addition to any other penalty required by law, that the defendant
8 make full restitution to any victim of the defendant's course of
9 conduct that ~~gives~~ **GAVE** rise to the conviction or to **THOSE ENTITLED**
10 **TO INHERIT** the victim's estate. For an offense that is resolved by
11 assignment of the defendant to youthful trainee status, by a
12 delayed sentence or deferred judgment of guilt, or in another way
13 that is not an acquittal or unconditional dismissal, the court
14 shall order the restitution required under this section.

15 (3) If a crime results in damage to or loss or destruction of
16 property of a victim of the crime or results in the seizure or
17 impoundment of property of a victim of the crime, the order of
18 restitution shall require that the defendant do 1 or more of the
19 following, as applicable:

20 (a) Return the property to the owner of the property or to a
21 person designated by the owner.

22 **(B) IF DAMAGED PERSONAL OR REAL PROPERTY CAN BE REPAIRED TO**
23 **RESTORE THE PROPERTY TO ITS CONDITION BEFORE THE DEFENDANT'S OR**
24 **RESPONDENT'S COURSE OF CRIMINAL CONDUCT, PAY AN AMOUNT EQUAL TO THE**
25 **REPAIR COST. ONE OR MORE REPAIR ESTIMATES MAY BE USED AS A BASIS**
26 **FOR RESTITUTION.**

27 (C) ~~(b)~~—If return of the property under subdivision (a) is

1 impossible, impractical, or inadequate, **OR IF REPAIR OF THE**
2 **PROPERTY UNDER SUBDIVISION (B) IS IMPOSSIBLE, IMPRACTICAL, OR**
3 **INADEQUATE**, pay an amount equal to the greater of subparagraph (i)
4 or (ii), less the value, determined as of the date the property is
5 returned, of that property or any part of the property that is
6 returned:

7 (i) The fair market value of the property on the date of the
8 damage, loss, or destruction. However, if the fair market value of
9 the property cannot be determined or is impractical to ascertain,
10 then the replacement value of the property shall be utilized in
11 lieu of the fair market value.

12 (ii) The fair market value of the property on the date of
13 sentencing. However, if the fair market value of the property
14 cannot be determined or is impractical to ascertain, then the
15 replacement value of the property shall be utilized in lieu of the
16 fair market value.

17 **(D) ~~(e)~~**—Pay the costs of the seizure or impoundment, or both.

18 (4) If a crime results in physical or psychological injury to
19 a victim, the order of restitution shall require that the defendant
20 do 1 or more of the following, as applicable:

21 (a) Pay an amount equal to the reasonably determined cost of
22 medical and related professional services and devices actually
23 incurred and reasonably expected to be incurred relating to
24 physical and psychological care.

25 (b) Pay an amount equal to the reasonably determined cost of
26 physical and occupational therapy and rehabilitation actually
27 incurred and reasonably expected to be incurred.

1 (c) Reimburse the victim or **THOSE ENTITLED TO INHERIT** the
2 victim's estate for after-tax income loss suffered by the victim as
3 a result of the crime.

4 (d) Pay an amount equal to the reasonably determined cost of
5 psychological and medical treatment for members of the victim's
6 family actually incurred and reasonably expected to be incurred as
7 a result of the crime.

8 (e) Pay an amount equal to the reasonably determined costs of
9 homemaking and child care expenses actually incurred and reasonably
10 expected to be incurred as a result of the crime or, if homemaking
11 or child care is provided without compensation by a relative,
12 friend, or any other person, an amount equal to the costs that
13 would reasonably be incurred as a result of the crime for that
14 homemaking and child care, based on the rates in the area for
15 comparable services.

16 (f) Pay an amount equal to the cost of actual funeral and
17 related services.

18 (g) If the deceased victim could be claimed as a dependent by
19 his or her parent or guardian on the parent's or guardian's
20 federal, state, or local income tax returns, pay an amount equal to
21 the loss of the tax deduction or tax credit. The amount of
22 reimbursement shall be estimated for each year the victim could
23 reasonably be claimed as a dependent.

24 (h) Pay an amount equal to income actually lost by the spouse,
25 parent, sibling, child, or grandparent of the victim because the
26 family member left his or her employment, temporarily or
27 permanently, to care for the victim because of the injury.

1 (5) If a crime resulting in bodily injury also results in the
2 death of a victim or serious impairment of a body function of a
3 victim, the court may order up to 3 times the amount of restitution
4 otherwise allowed under this section. As used in this subsection,
5 "serious impairment of a body function of a victim" includes, but
6 is not limited to, 1 or more of the following:

7 (a) Loss of a limb or use of a limb.

8 (b) Loss of a hand or foot or use of a hand or foot.

9 (c) Loss of an eye or use of an eye or ear.

10 (d) Loss or substantial impairment of a bodily function.

11 (e) Serious visible disfigurement.

12 (f) A comatose state that lasts for more than 3 days.

13 (g) Measurable brain damage or mental impairment.

14 (h) A skull fracture or other serious bone fracture.

15 (i) Subdural hemorrhage or subdural hematoma.

16 (j) Loss of a body organ.

17 (6) **WHEN SENTENCING A DEFENDANT CONVICTED OF AN OFFENSE**
18 **DESCRIBED IN CHAPTER LXVIIA OF THE MICHIGAN PENAL CODE, 1931 PA**
19 **328, MCL 750.462A TO 750.462H, THE COURT SHALL ORDER THE DEFENDANT**
20 **TO PAY ALL OF THE FOLLOWING:**

21 (A) **LOST INCOME, CALCULATED BY WHICHEVER OF THE FOLLOWING**
22 **METHODS RESULTS IN THE LARGEST AMOUNT:**

23 (i) **THE GROSS AMOUNT RECEIVED BY THE DEFENDANT FROM OR THE**
24 **VALUE TO THE DEFENDANT OF THE VICTIM'S LABOR OR SERVICES.**

25 (ii) **THE VALUE OF THE VICTIM'S LABOR OR SERVICES AS CALCULATED**
26 **UNDER THE WORKFORCE OPPORTUNITY WAGE ACT, 2014 PA 138, MCL 408.411**
27 **TO 408.424, OR THE FEDERAL MINIMUM WAGE, WHICHEVER RESULTS IN THE**

1 LARGEST VALUE.

2 (B) THE COST OF TRANSPORTATION, TEMPORARY HOUSING, AND CHILD
3 CARE EXPENSES INCURRED BY THE VICTIM BECAUSE OF THE OFFENSE.

4 (C) ATTORNEY FEES AND OTHER COSTS AND EXPENSES INCURRED BY THE
5 VICTIM BECAUSE OF THE OFFENSE, INCLUDING, BUT NOT LIMITED TO, COSTS
6 AND EXPENSES RELATING TO ASSISTING THE INVESTIGATION OF THE OFFENSE
7 AND FOR ATTENDANCE AT RELATED COURT PROCEEDINGS AS FOLLOWS:

8 (i) WAGES LOST.

9 (ii) CHILD CARE.

10 (iii) TRANSPORTATION.

11 (iv) PARKING.

12 (D) ANY OTHER LOSS SUFFERED BY THE VICTIM AS A PROXIMATE
13 RESULT OF THE OFFENSE.

14 (7) ~~(6)~~ If ~~the~~ **A** victim ~~or victim's estate~~ consents **OR THOSE**
15 **ENTITLED TO INHERIT THE VICTIM'S ESTATE CONSENT**, the order of
16 restitution may require that the defendant make restitution in
17 services in lieu of money.

18 (8) ~~(7)~~ If ~~the~~ **A** victim is deceased or dies, the court shall
19 order that the restitution or remaining restitution be made to
20 those entitled to inherit ~~from~~ the victim's estate.

21 (9) ~~(8)~~ The court shall order restitution to the crime victim
22 services commission or to any individuals, partnerships,
23 corporations, associations, governmental entities, or other legal
24 entities that have compensated ~~the~~ **A** victim or **THOSE ENTITLED TO**
25 **INHERIT** the victim's estate for a loss incurred by the victim to
26 the extent of the compensation paid for that loss. The court shall
27 also order restitution for the costs of services provided to

1 persons or entities that have provided services to ~~the~~**A** victim as
2 a result of the crime. Services that are subject to restitution
3 under this subsection include, but are not limited to, shelter,
4 food, clothing, and transportation. However, an order of
5 restitution shall require that all restitution to a victim or **THOSE**
6 **ENTITLED TO INHERIT THE** victim's estate under the order be made
7 before any restitution to any other person or entity under that
8 order is made. The court shall not order restitution to be paid to
9 a victim or **TO THOSE ENTITLED TO INHERIT THE** victim's estate if the
10 victim **HAS** or **THOSE ENTITLED TO INHERIT THE** victim's estate ~~has~~
11 **HAVE** received or ~~is~~**ARE** to receive compensation for that loss, and
12 the court shall state on the record with specificity the reasons
13 for its action.

14 (10) ~~(9)~~ Any amount paid to a victim or **THOSE ENTITLED TO**
15 **INHERIT THE** victim's estate under an order of restitution shall be
16 set off against any **IDENTICAL** amount later recovered as
17 compensatory damages by the victim or **THOSE ENTITLED TO INHERIT** the
18 victim's estate in any federal or state civil proceeding and shall
19 reduce the amount payable to a victim or ~~a~~**THOSE ENTITLED TO**
20 **INHERIT THE** victim's estate by an award from the crime victim
21 services commission made after an order of restitution under this
22 section.

23 (11) ~~(10)~~ If not otherwise provided by the court under this
24 subsection, restitution shall be made immediately. However, the
25 court may require that the defendant make restitution under this
26 section within a specified period or in specified installments.

27 (12) ~~(11)~~ If the defendant is placed on probation or paroled

1 or the court imposes a conditional sentence as provided in section
2 3 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL
3 769.3, any restitution ordered under this section shall be a
4 condition of that probation, parole, or sentence. The court may
5 revoke probation or impose imprisonment under the conditional
6 sentence and the parole board may revoke parole if the defendant
7 ~~fails to comply with the order and if the defendant has not~~
8 **COMPLIED OR** made a ~~good faith~~ **GOOD-FAITH** effort to comply with the
9 order. In determining whether to revoke probation or parole or
10 impose imprisonment, the court or parole board shall consider the
11 defendant's employment status, earning ability, and financial
12 resources, the willfulness of the defendant's failure to pay, and
13 any other special circumstances that may have a bearing on the
14 defendant's ability to pay.

15 (13) ~~(12)~~ Subject to subsection ~~(18)~~, **(19)**, a defendant who is
16 required to pay restitution and who is not in willful default of
17 the payment of the restitution may at any time petition the
18 sentencing judge or his or her successor to modify the method of
19 payment. If the court determines that payment under the order will
20 impose a manifest hardship on the defendant or his or her immediate
21 family, and if the court also determines that modifying the method
22 of payment will not impose a manifest hardship on the victim, the
23 court may modify the method of payment.

24 (14) ~~(13)~~ An order of restitution entered under this section
25 remains effective until it is satisfied in full. An order of
26 restitution is a judgment and lien against all property of the
27 defendant for the amount specified in the order of restitution. The

1 lien may be recorded as provided by law. An order of restitution
2 may be enforced by the prosecuting attorney, a victim, a ~~THOSE~~
3 **ENTITLED TO INHERIT THE** victim's estate, or any other person or
4 entity named in the order to receive the restitution in the same
5 manner as a judgment in a civil action or a lien.

6 (15) ~~(14)~~ Notwithstanding any other provision of this section,
7 a defendant shall not be imprisoned, jailed, or incarcerated for a
8 violation of probation or parole or otherwise for failure to pay
9 restitution as ordered under this section unless the court or
10 parole board determines that the defendant has the resources to pay
11 the ordered restitution and has not made a ~~good faith~~ **GOOD-FAITH**
12 effort to do so.

13 (16) ~~(15)~~ If the court determines that a juvenile is or will
14 be unable to pay all of the restitution ordered **TO BE PAID TO A**
15 **PERSON OTHER THAN HIS OR HER PARENT**, after notice to the juvenile's
16 parent or parents and an opportunity for the parent or parents to
17 be heard the court may order the parent or parents having
18 supervisory responsibility for the juvenile at the time of the acts
19 upon which an order of restitution is based to pay any portion of
20 the restitution ordered that is outstanding. An order under this
21 subsection does not relieve the juvenile of his or her obligation
22 to pay restitution as ordered, but the amount owed by the juvenile
23 shall be offset by any amount paid by his or her parent. As used in
24 this subsection:

25 (a) "Juvenile" means a person within the court's jurisdiction
26 under section 2d or 4 of chapter XIIA of the probate code of 1939,
27 1939 PA 288, MCL 712A.2d and 712A.4.

1 (b) "Parent" does not include a foster parent.

2 (17) ~~(16)~~—If the court orders a parent to pay restitution
3 under subsection ~~(15)~~, **(16)**, the court shall take into account the
4 parent's financial resources and the burden that the payment of
5 restitution will impose, with due regard to any other moral or
6 legal financial obligations the parent may have. If a parent is
7 required to pay restitution under subsection ~~(15)~~, **(16)**, the court
8 shall provide for payment to be made in specified installments and
9 within a specified period of time.

10 (18) ~~(17)~~—A parent who has been ordered to pay restitution
11 under subsection ~~(15)~~ **(16)** may petition the court for a
12 modification of the amount of restitution owed by the parent or for
13 a cancellation of any unpaid portion of the parent's obligation.
14 The court shall cancel all or part of the parent's obligation due
15 if the court determines that payment of the amount due will impose
16 a manifest hardship on the parent and if the court also determines
17 that modifying the method of payment will not impose a manifest
18 hardship on the victim.

19 (19) ~~(18)~~—In each case in which payment of restitution is
20 ordered as a condition of probation, the court shall order any
21 employed defendant to make regularly scheduled restitution
22 payments. If the defendant misses 2 or more regularly scheduled
23 payments, the court shall order the defendant to execute a wage
24 assignment to pay the restitution. The probation officer assigned
25 to the case shall review the case not less than twice yearly to
26 ensure that restitution is being paid as ordered. If the
27 restitution was ordered to be made within a specific period of

1 time, the probation officer assigned to the case shall review the
2 case at the end of the specific period of time to determine if the
3 restitution has been paid in full. The final review shall be
4 conducted not less than 60 days before the probationary period
5 expires. If the probation officer determines at any review that
6 restitution is not being paid as ordered, the probation officer
7 shall file a written report of the violation with the court on a
8 form prescribed by the state court administrative office or shall
9 petition the court for a probation violation. The report or
10 petition shall include a statement of the amount of the arrearage
11 and any reasons for the arrearage known by the probation officer.
12 The probation officer shall immediately provide a copy of the
13 report or petition to the prosecuting attorney. If a petition or
14 motion is filed or other proceedings are initiated to enforce
15 payment of restitution and the court determines that restitution is
16 not being paid or has not been paid as ordered by the court, the
17 court shall promptly take action necessary to compel compliance.

18 (20) ~~(19)~~—If a defendant who is ordered to pay restitution
19 under this section is remanded to the jurisdiction of the
20 department of corrections, the court shall provide a copy of the
21 order of restitution to the department of corrections when the
22 defendant is remanded to the department's jurisdiction.

23 (21) ~~(20)~~—The court shall not impose a fee on a victim, **THOSE**
24 **ENTITLED TO INHERIT THE** victim's estate, or prosecuting attorney
25 for enforcing an order of restitution.

26 (22) ~~(21)~~—If a person or entity entitled to restitution under
27 this section cannot be located, refuses to claim the restitution

1 within 2 years after the date on which he or she could have claimed
2 the restitution, or refuses to accept the restitution, the
3 restitution to which that person or entity is entitled shall be
4 deposited in the crime victim's rights fund created under section 4
5 of 1989 PA 196, MCL 780.904, or its successor fund. However, a
6 person or entity entitled to that restitution may claim that
7 restitution any time by applying to the court that originally
8 ordered and collected it. The court shall notify the crime victim
9 services commission of the application and the commission shall
10 approve a reduction in the court's revenue transmittal to the crime
11 victim's rights fund equal to the restitution owed to the person or
12 entity. The court shall use the reduction to reimburse that
13 restitution to the person or entity.

14 (23) ~~(22)~~—The court may amend an order of restitution entered
15 under this section on a motion by the prosecuting attorney, the
16 victim, or the defendant based upon new information related to the
17 injury, damages, or loss for which the restitution was ordered.

18 (24) ~~(23)~~—A court that receives notice that a defendant who
19 has an obligation to pay restitution under this section has
20 declared bankruptcy shall forward a copy of that notice to the
21 prosecuting attorney. The prosecuting attorney shall forward the
22 notice to the victim at the victim's last known address.

23 (25) ~~(24)~~—If the victim is a minor, the order of restitution
24 shall require the defendant to pay to a parent of the victim an
25 amount that is determined to be reasonable for any of the following
26 that are actually incurred or reasonably expected to be incurred by
27 the parent as a result of the crime:

- 1 (a) Homemaking and child care expenses.
2 (b) Income loss not ordered to be paid under subsection
3 (4) (h).
4 (c) Mileage.
5 (d) Lodging or housing.
6 (e) Meals.
7 (f) Any other cost incurred in exercising the rights of the
8 victim or a parent under this act.

9 Sec. 16a. (1) If a person is subject to any combination of
10 fines, costs, restitution, assessments, probation or parole
11 supervision fees, or other payments arising out of the same
12 criminal proceeding, money collected from that person for the
13 payment of fines, costs, restitution, assessments, probation or
14 parole supervision fees, or other payments ordered to be paid in
15 that proceeding shall be allocated as provided in this section. If
16 a person is subject to fines, costs, restitution, assessments,
17 probation or parole supervision fees, or other payments in more
18 than 1 proceeding in a court and if a person making a payment on
19 the fines, costs, restitution, assessments, probation or parole
20 supervision fees, or other payments does not indicate the
21 proceeding for which the payment is made, the court shall first
22 apply the money paid to a proceeding in which there is unpaid
23 restitution to be allocated as provided in this section.

24 (2) Except as otherwise provided in this subsection, if a
25 person is subject to payment of victim payments and any combination
26 of other fines, costs, assessments, probation or parole supervision
27 fees, or other payments, 50% of each payment collected ~~by the court~~

1 from that person shall be applied to payment of **ORDERED** victim
2 payments, and the balance shall be applied to payment of fines,
3 costs, supervision fees, and other assessments or payments. If a
4 person making a payment indicates that the payment is to be applied
5 to victim payments, or if the payment is received as a result of a
6 wage assignment under section 16 or from the department of
7 corrections or sheriff under section 17a, the payment shall first
8 be applied to victim payments. If any fines, costs, supervision
9 fees, or other assessments or payments remain unpaid after all of
10 the victim payments have been paid, any additional money collected
11 shall be applied to payment of those fines, costs, supervision
12 fees, or other assessments or payments. If any victim payments
13 remain unpaid after all of the fines, costs, supervision fees, or
14 other assessments or payments have been paid, any additional money
15 collected shall be applied to payment of those victim payments.

16 (3) In cases involving prosecutions for violations of state
17 law, money allocated under subsection (2) for payment of fines,
18 costs, probation and parole supervision fees, and assessments or
19 payments other than victim payments shall be applied in the
20 following order of priority:

21 (a) Payment of the minimum state cost prescribed by section 1j
22 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL
23 769.1j.

24 (b) Payment of other costs.

25 (c) Payment of fines.

26 (d) Payment of probation or parole supervision fees.

27 (e) Payment of assessments and other payments, including

1 reimbursement to third parties who reimbursed a victim for his or
2 her loss.

3 (4) In cases involving prosecutions for violations of local
4 ordinances, money allocated under subsection (2) for payment of
5 fines, costs, and assessments or payments other than victim
6 payments shall be applied in the following order of priority:

7 (a) Payment of the minimum state cost prescribed by section 1j
8 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL
9 769.1j.

10 (b) Payment of fines and other costs.

11 (c) Payment of assessments and other payments.

12 (5) As used in this section, "victim payment" means
13 restitution ordered to be paid to the victim or **TO THOSE ENTITLED**
14 **TO INHERIT** the victim's estate, but not to a person who reimbursed
15 the victim for his or her loss; or an assessment ordered under
16 section 5 of 1989 PA 196, MCL 780.905.

17 Sec. 44. (1) As used in this section only:

18 (a) "Offense" means a violation of a penal law of this state
19 or a violation of an ordinance of a local unit of government of
20 this state punishable by imprisonment or by a fine that is not a
21 civil fine.

22 (b) "Victim" means an individual who suffers direct or
23 threatened physical, financial, or emotional harm as a result of
24 ~~the commission of an offense.~~ **JUVENILE'S COURSE OF CONDUCT**. As used
25 in subsections (2), (3), (6), (8), (9), and (13) only, victim
26 includes a sole proprietorship, partnership, corporation,
27 association, governmental entity, or any other legal entity that

1 suffers direct physical or financial harm as a result of an
2 ~~offense.~~ **THE JUVENILE'S COURSE OF CONDUCT.**

3 (2) Except as provided in subsection (8), at the dispositional
4 hearing or sentencing for an offense, the court shall order, in
5 addition to or in lieu of any other disposition or penalty
6 authorized by law, that the juvenile make full restitution to any
7 victim of the juvenile's course of conduct that gives rise to the
8 disposition or conviction or to **THOSE ENTITLED TO INHERIT** the
9 victim's estate. For an offense that is resolved informally by
10 means of a consent calendar diversion or by another informal method
11 that does not result in a dispositional hearing, by assignment to
12 youthful trainee status, by a delayed sentence or deferred judgment
13 of guilt, or in another way that is not an acquittal or
14 unconditional dismissal, the court shall order the restitution
15 required under this section.

16 (3) If an offense results in damage to or loss or destruction
17 of property of a victim of the offense or results in the seizure or
18 impoundment of property of a victim of the offense, the order of
19 restitution shall require that the juvenile **OR RESPONDENT** do 1 or
20 more of the following, as applicable:

21 (a) Return the property to the owner of the property or to a
22 person designated by the owner.

23 **(B) IF DAMAGED PERSONAL OR REAL PROPERTY CAN BE REPAIRED TO**
24 **RESTORE THE PROPERTY TO ITS CONDITION BEFORE THE JUVENILE'S OR**
25 **RESPONDENT'S COURSE OF CRIMINAL CONDUCT, PAY AN AMOUNT EQUAL TO THE**
26 **REPAIR COST. ONE OR MORE REPAIR ESTIMATES MAY BE USED AS A BASIS**
27 **FOR RESTITUTION.**

1 (C) ~~(b)~~—If return of the property under subdivision (a) is
2 impossible, impractical, or inadequate, **OR IF REPAIR OF THE**
3 **PROPERTY UNDER SUBDIVISION (B) IS IMPOSSIBLE, IMPRACTICAL, OR**
4 **INADEQUATE**, pay an amount equal to the greater of subparagraph (i)
5 or (ii), less the value, determined as of the date the property is
6 returned, of that property or any part of the property that is
7 returned:

8 (i) The fair market value of the property on the date of the
9 damage, loss, or destruction. However, if the fair market value of
10 the property cannot be determined or is impractical to ascertain,
11 then the replacement value of the property shall be utilized in
12 lieu of the fair market value.

13 (ii) The fair market value of the property on the date of
14 disposition. However, if the fair market value of the property
15 cannot be determined or is impractical to ascertain, then the
16 replacement value of the property shall be utilized in lieu of the
17 fair market value.

18 (D) ~~(e)~~—Pay the costs of the seizure or impoundment, or both.

19 (4) If an offense results in physical or psychological injury
20 to a victim, the order of restitution shall require that the
21 juvenile do 1 or more of the following, as applicable:

22 (a) Pay an amount equal to the reasonably determined cost of
23 medical and related professional services and devices actually
24 incurred and reasonably expected to be incurred relating to
25 physical and psychological care.

26 (b) Pay an amount equal to the reasonably determined cost of
27 physical and occupational therapy and rehabilitation actually

1 incurred and reasonably expected to be incurred.

2 (c) Reimburse the victim or **THOSE ENTITLED TO INHERIT** the
3 victim's estate for after-tax income loss suffered by the victim as
4 a result of the offense.

5 (d) Pay an amount equal to the reasonably determined cost of
6 psychological and medical treatment for members of the victim's
7 family actually incurred or reasonably expected to be incurred as a
8 result of the offense.

9 (e) Pay an amount equal to the reasonably determined costs of
10 homemaking and child care expenses actually incurred or reasonably
11 expected to be incurred as a result of the offense or, if
12 homemaking or child care is provided without compensation by a
13 relative, friend, or any other person, an amount equal to the costs
14 that would reasonably be incurred as a result of the offense for
15 that homemaking and child care, based on the rates in the area for
16 comparable services.

17 (f) Pay an amount equal to the cost of actual funeral and
18 related services.

19 (g) If the deceased victim could be claimed as a dependent by
20 his or her parent or guardian on the parent's or guardian's
21 federal, state, or local income tax returns, pay an amount equal to
22 the loss of the tax deduction or tax credit. The amount of
23 reimbursement shall be estimated for each year the victim could
24 reasonably be claimed as a dependent.

25 (h) Pay an amount equal to income actually lost by the spouse,
26 parent, sibling, child, or grandparent of the victim because the
27 family member left his or her employment, temporarily or

1 permanently, to care for the victim because of the injury.

2 (5) If an offense resulting in bodily injury also results in
3 the death of a victim or serious impairment of a body function of a
4 victim, the court may order up to 3 times the amount of restitution
5 otherwise allowed under this section. As used in this subsection,
6 "serious impairment of a body function of a victim" includes, but
7 is not limited to, 1 or more of the following:

8 (a) Loss of a limb or use of a limb.

9 (b) Loss of a hand or foot or use of a hand or foot.

10 (c) Loss of an eye or use of an eye or ear.

11 (d) Loss or substantial impairment of a bodily function.

12 (e) Serious visible disfigurement.

13 (f) A comatose state that lasts for more than 3 days.

14 (g) Measurable brain damage or mental impairment.

15 (h) A skull fracture or other serious bone fracture.

16 (i) Subdural hemorrhage or subdural hematoma.

17 (j) Loss of a body organ.

18 (6) If ~~the~~ **A** victim ~~or victim's estate consents~~ **OR THOSE**
19 **ENTITLED TO INHERIT THE VICTIM'S ESTATE CONSENT**, the order of
20 restitution may require that the juvenile make restitution in
21 services in lieu of money.

22 (7) If ~~the~~ **A** victim is deceased or dies, the court shall order
23 that the restitution or remaining restitution be made to those
24 entitled to inherit ~~from~~ the victim's estate.

25 (8) The court shall order restitution to the crime victim
26 services commission or to any individuals, partnerships,
27 corporations, associations, governmental entities, or other legal

1 entities that have compensated ~~the~~**A** victim or **THOSE ENTITLED TO**
2 **INHERIT** the victim's estate for a loss incurred by the victim to
3 the extent of the compensation paid for that loss. The court shall
4 also order restitution for the costs of services provided to
5 persons or entities that have provided services to ~~the~~**A** victim as
6 a result of the offense. Services that are subject to restitution
7 under this subsection include, but are not limited to, shelter,
8 food, clothing, and transportation. However, an order of
9 restitution shall require that all restitution to a victim or **THOSE**
10 **ENTITLED TO INHERIT THE** victim's estate under the order be made
11 before any restitution to any other person or entity under that
12 order is made. The court shall not order restitution to be paid to
13 a victim or **THOSE ENTITLED TO INHERIT THE** victim's estate if the
14 victim ~~or victim's estate has~~ **OR THOSE ENTITLED TO INHERIT THE**
15 **VICTIM'S ESTATE HAVE** received or ~~is~~**ARE** to receive compensation for
16 that loss, and the court shall state on the record with specificity
17 the reasons for its action.

18 (9) Any amount paid to a victim or **THOSE ENTITLED TO INHERIT**
19 **THE** victim's estate under an order of restitution shall be set off
20 against any **IDENTICAL** amount later recovered as compensatory
21 damages by the victim or **THOSE ENTITLED TO INHERIT** the victim's
22 estate in any federal or state civil proceeding and shall reduce
23 the amount payable to a victim or ~~a~~**THOSE ENTITLED TO INHERIT THE**
24 victim's estate by an award from the crime victim services
25 commission made after an order of restitution under this section.

26 (10) If not otherwise provided by the court under this
27 subsection, restitution shall be made immediately. However, the

1 court may require that the juvenile make restitution under this
2 section within a specified period or in specified installments.

3 (11) If the juvenile is placed on probation, any restitution
4 ordered under this section shall be a condition of that probation.
5 The court may revoke probation if the juvenile ~~fails to comply with~~
6 ~~the order and if the juvenile has not~~ **COMPLIED OR** made a ~~good faith~~
7 **GOOD-FAITH** effort to comply with the order. In determining whether
8 to revoke probation, the court shall consider the juvenile's
9 employment status, earning ability, and financial resources, the
10 willfulness of the juvenile's failure to pay, and any other special
11 circumstances that may have a bearing on the juvenile's ability to
12 pay.

13 (12) Subject to subsection (18), a juvenile who is required to
14 pay restitution and who is not in willful default of the payment of
15 the restitution may at any time petition the court to modify the
16 method of payment. If the court determines that payment under the
17 order will impose a manifest hardship on the juvenile or his or her
18 immediate family, and if the court also determines that modifying
19 the method of payment will not impose a manifest hardship on the
20 victim, the court may modify the method of payment.

21 (13) An order of restitution entered under this section
22 remains effective until it is satisfied in full. An order of
23 restitution is a judgment and lien against all property of the
24 individual ordered to pay restitution for the amount specified in
25 the order of restitution. The lien may be recorded as provided by
26 law. An order of restitution may be enforced by the prosecuting
27 attorney, a victim, a ~~THOSE ENTITLED TO INHERIT THE~~ victim's

1 estate, or any other person or entity named in the order to receive
2 the restitution in the same manner as a judgment in a civil action
3 or a lien.

4 (14) Notwithstanding any other provision of this section, a
5 juvenile shall not be detained or imprisoned for a violation of
6 probation or parole or otherwise for failure to pay restitution as
7 ordered under this section unless the court determines that the
8 juvenile has the resources to pay the ordered restitution and has
9 not made a ~~good faith~~ **GOOD-FAITH** effort to do so.

10 (15) If the court determines that the juvenile is or will be
11 unable to pay all of the restitution ordered **TO A PERSON OTHER THAN**
12 **HIS OR HER PARENT**, after notice to the juvenile's parent or parents
13 and an opportunity for the parent or parents to be heard, the court
14 may order the parent or parents having supervisory responsibility
15 for the juvenile at the time of the acts upon which an order of
16 restitution is based to pay any portion of the restitution ordered
17 that is outstanding. An order under this subsection does not
18 relieve the juvenile of his or her obligation to pay restitution as
19 ordered, but the amount owed by the juvenile shall be offset by any
20 amount paid by his or her parent. As used in this subsection,
21 "parent" does not include a foster parent.

22 (16) If the court orders a parent to pay restitution under
23 subsection (15), the court shall take into account the parent's
24 financial resources and the burden that the payment of restitution
25 will impose, with due regard to any other moral or legal financial
26 obligations the parent may have. If a parent is required to pay
27 restitution under subsection (15), the court shall provide for

1 payment to be made in specified installments and within a specified
2 period of time.

3 (17) A parent who has been ordered to pay restitution under
4 subsection (15) may petition the court for a modification of the
5 amount of restitution owed by the parent or for a cancellation of
6 any unpaid portion of the parent's obligation. The court shall
7 cancel all or part of the parent's obligation due if the court
8 determines that payment of the amount due will impose a manifest
9 hardship on the parent and if the court also determines that
10 modifying the method of payment will not impose a manifest hardship
11 on the victim.

12 (18) In each case in which payment of restitution is ordered
13 as a condition of probation, the court shall order any employed
14 juvenile to make regularly scheduled restitution payments. If the
15 juvenile misses 2 or more regularly scheduled payments, the court
16 shall order the juvenile to execute a wage assignment to pay the
17 restitution. The juvenile caseworker or probation officer assigned
18 to the case shall review the case not less than twice yearly to
19 ensure that restitution is being paid as ordered. If the
20 restitution was ordered to be made within a specific period of
21 time, the juvenile caseworker or probation officer assigned to the
22 case shall review the case at the end of the specific period of
23 time to determine if the restitution has been paid in full. The
24 final review shall be conducted not less than 60 days before the
25 probationary period expires. If the juvenile caseworker or
26 probation officer determines at any review the restitution is not
27 being paid as ordered, the juvenile caseworker or probation officer

1 shall file a written report of the violation with the court on a
2 form prescribed by the state court administrative office or shall
3 petition the court for a probation violation. The report or
4 petition shall include a statement of the amount of the arrearage,
5 and any reasons for the arrearage known by the juvenile caseworker
6 or probation officer. The juvenile caseworker or probation officer
7 shall immediately provide a copy of the report or petition to the
8 prosecuting attorney. If a petition or motion is filed or other
9 proceedings are initiated to enforce payment of restitution and the
10 court determines that restitution is not being paid or has not been
11 paid as ordered by the court, the court shall promptly take action
12 necessary to compel compliance.

13 (19) If the court determines that an individual who is ordered
14 to pay restitution under this section is remanded to the
15 jurisdiction of the department of corrections, the court shall
16 provide a copy of the order of restitution to the department of
17 corrections when the court determines that the individual is
18 remanded to the department's jurisdiction.

19 (20) The court shall not impose a fee on a victim, **THOSE**
20 **ENTITLED TO INHERIT THE** victim's estate, or prosecuting attorney
21 for enforcing an order of restitution.

22 (21) If a person or entity entitled to restitution under this
23 section cannot be located, refuses to claim the restitution within
24 2 years after the date on which he or she could have claimed the
25 restitution, or refuses to accept the restitution, the restitution
26 to which that person or entity is entitled shall be deposited in
27 the crime victim's rights fund created under section 4 of 1989 PA

1 196, MCL 780.904, or its successor fund. However, a person or
2 entity entitled to that restitution may claim that restitution any
3 time by applying to the court that originally ordered and collected
4 it. The court shall notify the crime victim services commission of
5 the application and the commission shall approve a reduction in the
6 court's revenue transmittal to the crime victim's rights fund equal
7 to the restitution owed to the person or entity. The court shall
8 use the reduction to reimburse that restitution to the person or
9 entity.

10 (22) The court may amend an order of restitution entered under
11 this section on a motion by the prosecuting attorney, the victim,
12 or the ~~defendant~~-**JUVENILE** based upon new information related to the
13 injury, damages, or loss for which the restitution was ordered.

14 (23) A court that receives notice that a ~~defendant~~-**JUVENILE**
15 who has an obligation to pay restitution under this section has
16 declared bankruptcy shall forward a copy of that notice to the
17 prosecuting attorney. The prosecuting attorney shall forward the
18 notice to the victim at the victim's last known address.

19 (24) If the victim is a minor, the order of restitution shall
20 require the ~~defendant~~-**JUVENILE** to pay to a parent of the victim an
21 amount that is determined to be reasonable for any of the following
22 that are actually incurred or reasonably expected to be incurred by
23 the parent as a result of the ~~crime~~-**OFFENSE**:

24 (a) Homemaking and child care expenses.

25 (b) Income loss not ordered to be paid under subsection

26 (4) (h).

27 (c) Mileage.

1 (d) Lodging or housing.

2 (e) Meals.

3 (f) Any other cost incurred in exercising the rights of the
4 victim or a parent under this act.

5 Sec. 44a. (1) If a juvenile is subject to any combination of
6 fines, costs, restitution, assessments, probation or parole
7 supervision fees, or other payments arising out of the same
8 ~~criminal proceeding,~~ **ADJUDICATION**, money collected from that
9 juvenile **OR HIS OR HER PARENT OR PARENTS** for the payment of fines,
10 costs, restitution, assessments, probation or parole supervision
11 fees, or other payments ordered to be paid in that proceeding shall
12 be allocated as provided in this section. If a person is subject to
13 fines, costs, restitution, assessments, probation or parole
14 supervision fees, or other payments in more than 1 proceeding in a
15 court and if a person making a payment on the fines, costs,
16 restitution, assessments, probation or parole supervision fees, or
17 other payments does not indicate the proceeding for which the
18 payment is made, the court shall first apply the money paid to a
19 proceeding in which there is unpaid restitution to be allocated as
20 provided in this section.

21 (2) Except as otherwise provided in this subsection, if a
22 juvenile is subject to payment of victim payments and any
23 combination of other fines, costs, assessments, probation or parole
24 supervision fees, or other payments, 50% of each payment collected
25 ~~by the court~~ from that juvenile shall be applied to payment of
26 **ORDERED** victim payments, and the balance shall be applied to
27 payment of fines, costs, supervision fees, and other assessments or

1 payments. If a person making a payment indicates that the payment
2 is to be applied to victim payments, or if the payment is received
3 as a result of a wage assignment under section 44 or from the
4 department of corrections, sheriff, department of **HEALTH AND** human
5 services, or county juvenile agency under section 46b, the payment
6 shall first be applied to victim payments. If any fines, costs,
7 supervision fees, or other assessments or payments remain unpaid
8 after all of the victim payments have been paid, any additional
9 money collected shall be applied to payment of those fines, costs,
10 supervision fees, or other assessments or payments. If any victim
11 payments remain unpaid after all of the fines, costs, supervision
12 fees, or other assessments or payments have been paid, any
13 additional money collected shall be applied to payment of those
14 victim payments.

15 (3) In cases involving prosecutions for violations of state
16 law, money allocated under subsection (2) for payment of fines,
17 costs, probation and parole supervision fees, and assessments or
18 payments other than victim payments shall be applied in the
19 following order of priority:

20 (a) Payment of the minimum state cost prescribed by section 1j
21 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL
22 769.1j.

23 (b) Payment of other costs.

24 (c) Payment of fines.

25 (d) Payment of probation or parole supervision fees.

26 (e) Payment of assessments and other payments, including
27 reimbursement to third parties who reimbursed a victim for his or

1 her loss.

2 (4) In cases involving prosecutions for violations of local
3 ordinances, money allocated under subsection (2) for payment of
4 fines, costs, and assessments or payments other than victim
5 payments shall be applied in the following order of priority:

6 (a) Payment of the minimum state cost prescribed by section 1j
7 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL
8 769.1j.

9 (b) Payment of fines and other costs.

10 (c) Payment of assessments and other payments.

11 (5) As used in this section, "victim payment" means
12 restitution ordered to be paid to the victim or **TO THOSE ENTITLED**
13 **TO INHERIT** the victim's estate, but not to a person who reimbursed
14 the victim for his or her loss; or an assessment ordered under
15 section 5 of 1989 PA 196, MCL 780.905.

16 Sec. 45. (1) In determining the amount of restitution to order
17 under section 44, the court shall consider the amount of the loss
18 sustained by any victim as a result of the offense **OR THE**
19 **JUVENILE'S COURSE OF CONDUCT**. In determining whether to order the
20 juvenile's supervisory parent to pay restitution under section
21 44(15), the court shall consider the financial resources of the
22 juvenile's supervisory parent and the other factors specified in
23 section 44(16).

24 (2) The court may order the person preparing a report for the
25 purpose of disposition to obtain information pertaining to the
26 factors set forth in subsection (1). That person shall include the
27 information collected in the disposition report or in a separate

1 report, as the court directs.

2 (3) The court shall disclose to the juvenile, the juvenile's
3 supervisory parent, and the prosecuting attorney all portions of
4 the disposition or other report pertaining to the matters described
5 in subsection (1).

6 (4) Any dispute as to the proper amount or type of restitution
7 shall be resolved by the court by a preponderance of the evidence.
8 The burden of demonstrating the amount of the loss sustained by a
9 victim as a result of the offense shall be on the prosecuting
10 attorney. The burden of demonstrating the financial resources of
11 the juvenile's supervisory parent and the other factors specified
12 in section 44(16) shall be on the supervisory parent.

13 Sec. 76. (1) As used in this section only:

14 (a) "Misdemeanor" means a violation of a law of this state or
15 a local ordinance that is punishable by imprisonment for not more
16 than 1 year or a fine that is not a civil fine, but that is not a
17 felony.

18 (b) "Victim" means an individual who suffers direct or
19 threatened physical, financial, or emotional harm as a result of
20 ~~the commission of a misdemeanor.~~ **DEFENDANT'S COURSE OF CONDUCT.** As
21 used in subsections (2), (3), (6), (8), (9), and (13) only, victim
22 includes a sole proprietorship, partnership, corporation,
23 association, governmental entity, or any other legal entity that
24 suffers direct physical or financial harm as a result of a
25 ~~misdemeanor.~~ **THE DEFENDANT'S COURSE OF CONDUCT.**

26 (2) Except as provided in subsection (8), when sentencing a
27 defendant convicted of a misdemeanor, the court shall order, in

1 addition to or in lieu of any other penalty authorized by law or in
2 addition to any other penalty required by law, that the defendant
3 make full restitution to any victim of the defendant's course of
4 conduct that ~~gives~~**GAVE** rise to the conviction or to **THOSE ENTITLED**
5 **TO INHERIT** the victim's estate. For an offense that is resolved by
6 assignment of the defendant to youthful trainee status, by a
7 delayed sentence or deferred judgment of guilt, or in another way
8 that is not an acquittal or unconditional dismissal, the court
9 shall order the restitution required under this section.

10 (3) If a misdemeanor results in damage to or loss or
11 destruction of property of a victim of the misdemeanor or results
12 in the seizure or impoundment of property of a victim of the
13 misdemeanor, the order of restitution shall require that the
14 defendant **OR RESPONDENT** do 1 or more of the following, as
15 applicable:

16 (a) Return the property to the owner of the property or to a
17 person designated by the owner.

18 **(B) IF DAMAGED PERSONAL OR REAL PROPERTY CAN BE REPAIRED TO**
19 **RESTORE THE PROPERTY TO ITS CONDITION BEFORE THE DEFENDANT'S OR**
20 **RESPONDENT'S COURSE OF CRIMINAL CONDUCT, PAY AN AMOUNT EQUAL TO THE**
21 **REPAIR COST. ONE OR MORE REPAIR ESTIMATES MAY BE USED AS A BASIS**
22 **FOR RESTITUTION.**

23 (C) ~~(b)~~ If return of the property under subdivision (a) is
24 impossible, impractical, or inadequate, **OR IF REPAIR OF THE**
25 **PROPERTY UNDER SUBDIVISION (B) IS IMPOSSIBLE, IMPRACTICAL, OR**
26 **INADEQUATE**, pay an amount equal to the greater of subparagraph (i)
27 or (ii), less the value, determined as of the date the property is

1 returned, of that property or any part of the property that is
2 returned:

3 (i) The fair market value of the property on the date of the
4 damage, loss, or destruction. However, if the fair market value of
5 the property cannot be determined or is impractical to ascertain,
6 then the replacement value of the property shall be utilized in
7 lieu of the fair market value.

8 (ii) The fair market value of the property on the date of
9 sentencing. However, if the fair market value of the property
10 cannot be determined or is impractical to ascertain, then the
11 replacement value of the property shall be utilized in lieu of the
12 fair market value.

13 (D) ~~(e)~~—Pay the costs of the seizure or impoundment, or both.

14 (4) If a misdemeanor results in physical or psychological
15 injury to a victim, the order of restitution shall require that the
16 defendant do 1 or more of the following, as applicable:

17 (a) Pay an amount equal to the reasonably determined cost of
18 medical and related professional services and devices actually
19 incurred and reasonably expected to be incurred relating to
20 physical and psychological care.

21 (b) Pay an amount equal to the reasonably determined cost of
22 physical and occupational therapy and rehabilitation actually
23 incurred and reasonably expected to be incurred.

24 (c) Reimburse the victim or **THOSE ENTITLED TO INHERIT** the
25 victim's estate for after-tax income loss suffered by the victim as
26 a result of the misdemeanor.

27 (d) Pay an amount equal to the reasonably determined cost of

1 psychological and medical treatment for members of the victim's
2 family actually incurred and reasonably expected to be incurred as
3 a result of the misdemeanor.

4 (e) Pay an amount equal to the reasonably determined costs of
5 homemaking and child care expenses actually incurred and reasonably
6 expected to be incurred as a result of the misdemeanor or, if
7 homemaking or child care is provided without compensation by a
8 relative, friend, or any other person, an amount equal to the costs
9 that would reasonably be incurred as a result of the misdemeanor
10 for that homemaking and child care, based on the rates in the area
11 for comparable services.

12 (f) Pay an amount equal to the cost of actual funeral and
13 related services.

14 (g) If the deceased victim could be claimed as a dependent by
15 his or her parent or guardian on the parent's or guardian's
16 federal, state, or local income tax returns, pay an amount equal to
17 the loss of the tax deduction or tax credit. The amount of
18 reimbursement shall be estimated for each year the victim could
19 reasonably be claimed as a dependent.

20 (h) Pay an amount equal to income actually lost by the spouse,
21 parent, sibling, child, or grandparent of the victim because the
22 family member left his or her employment, temporarily or
23 permanently, to care for the victim because of the injury.

24 (5) If a crime resulting in bodily injury also results in the
25 death of a victim or serious impairment of a body function of a
26 victim, the court may order up to 3 times the amount of restitution
27 otherwise allowed under this section. As used in this subsection,

1 "serious impairment of a body function of a victim" includes, but
2 is not limited to, 1 or more of the following:

3 (a) Loss of a limb or use of a limb.

4 (b) Loss of a hand or foot or use of a hand or foot.

5 (c) Loss of an eye or use of an eye or ear.

6 (d) Loss or substantial impairment of a bodily function.

7 (e) Serious visible disfigurement.

8 (f) A comatose state that lasts for more than 3 days.

9 (g) Measurable brain damage or mental impairment.

10 (h) A skull fracture or other serious bone fracture.

11 (i) Subdural hemorrhage or subdural hematoma.

12 (j) Loss of a body organ.

13 (6) If ~~the-A~~ victim ~~or victim's estate~~ consents **OR THOSE**
14 **ENTITLED TO INHERIT THE VICTIM'S ESTATE CONSENT**, the order of
15 restitution may require that the defendant make restitution in
16 services in lieu of money.

17 (7) If ~~the-A~~ victim is deceased or dies, the court shall order
18 that the restitution or remaining restitution be made to those
19 entitled to inherit ~~from~~ the victim's estate.

20 (8) The court shall order restitution to the crime victim
21 services commission or to any individuals, partnerships,
22 corporations, associations, governmental entities, or other legal
23 entities that have compensated ~~the-A~~ victim or **THOSE ENTITLED TO**
24 **INHERIT** the victim's estate for a loss incurred by the victim to
25 the extent of the compensation paid for that loss. The court shall
26 also order restitution for the costs of services provided to
27 persons or entities that have provided services to ~~the-A~~ victim as

1 a result of the misdemeanor. Services that are subject to
2 restitution under this subsection include, but are not limited to,
3 shelter, food, clothing, and transportation. However, an order of
4 restitution shall require that all restitution to a victim or **THOSE**
5 **ENTITLED TO INHERIT THE** victim's estate under the order be made
6 before any restitution to any other person or entity under that
7 order is made. The court shall not order restitution to be paid to
8 a victim or **THOSE ENTITLED TO INHERIT THE** victim's estate if the
9 victim ~~or victim's estate~~ has **OR THOSE ENTITLED TO INHERIT THE**
10 **VICTIM'S ESTATE HAVE** received or ~~is~~ **ARE** to receive compensation for
11 that loss, and the court shall state on the record with specificity
12 the reasons for its action.

13 (9) Any amount paid to a victim or **THOSE ENTITLED TO INHERIT**
14 **THE** victim's estate under an order of restitution shall be set off
15 against any amount later recovered as compensatory damages by the
16 victim or **THOSE ENTITLED TO INHERIT** the victim's estate in any
17 federal or state civil proceeding and shall reduce the amount
18 payable to a victim or ~~a~~ **THOSE ENTITLED TO INHERIT THE** victim's
19 estate by an award from the crime victim services commission made
20 after an order of restitution under this section.

21 (10) If not otherwise provided by the court under this
22 subsection, restitution shall be made immediately. However, the
23 court may require that the defendant make restitution under this
24 section within a specified period or in specified installments.

25 (11) If the defendant is placed on probation or the court
26 imposes a conditional sentence as provided in section 3 of chapter
27 IX of the code of criminal procedure, 1927 PA 175, MCL 769.3, any

1 restitution ordered under this section shall be a condition of that
2 probation or sentence. The court may revoke probation or impose
3 imprisonment under the conditional sentence if the defendant ~~fails~~
4 ~~to comply with the order and if the defendant~~ has not **COMPLIED OR**
5 made a ~~good faith~~ **GOOD-FAITH** effort to comply with the order. In
6 determining whether to revoke probation or impose imprisonment, the
7 court shall consider the defendant's employment status, earning
8 ability, and financial resources, the willfulness of the
9 defendant's failure to pay, and any other special circumstances
10 that may have a bearing on the defendant's ability to pay.

11 (12) Subject to subsection (15), a defendant who is required
12 to pay restitution and who is not in willful default of the payment
13 of the restitution may at any time petition the sentencing judge or
14 his or her successor to modify the method of payment. If the court
15 determines that payment under the order will impose a manifest
16 hardship on the defendant or his or her immediate family, and if
17 the court also determines that modifying the method of payment will
18 not impose a manifest hardship on the victim, the court may modify
19 the method of payment.

20 (13) An order of restitution entered under this section
21 remains effective until it is satisfied in full. An order of
22 restitution is a judgment and lien against all property of the
23 defendant for the amount specified in the order of restitution. The
24 lien may be recorded as provided by law. An order of restitution
25 may be enforced by the prosecuting attorney, a victim, ~~a~~ **THOSE**
26 **ENTITLED TO INHERIT THE** victim's estate, or any other person or
27 entity named in the order to receive restitution in the same manner

1 as a judgment in a civil action or a lien.

2 (14) Notwithstanding any other provision of this section, a
3 defendant shall not be imprisoned, jailed, or incarcerated for a
4 violation of probation or otherwise for failure to pay restitution
5 as ordered under this section unless the court determines that the
6 defendant has the resources to pay the ordered restitution and has
7 not made a ~~good faith~~ **GOOD-FAITH** effort to do so.

8 (15) In each case in which payment of restitution is ordered
9 as a condition of probation, the court shall order any employed
10 defendant to make regularly scheduled restitution payments. If the
11 defendant misses 2 or more regularly scheduled payments, the court
12 shall order the defendant to execute a wage assignment to pay the
13 restitution. The probation officer assigned to the case shall
14 review the case not less than twice yearly to ensure that
15 restitution is being paid as ordered. If the restitution was
16 ordered to be made within a specific period of time, the probation
17 officer assigned to the case shall review the case at the end of
18 the specific period of time to determine if the restitution has
19 been paid in full. The final review shall be conducted not less
20 than 60 days before the probationary period expires. If the
21 probation officer determines at any review that restitution is not
22 being paid as ordered, the probation officer shall file a written
23 report of the violation with the court on a form prescribed by the
24 state court administrative office or shall petition the court for a
25 probation violation. The report or petition shall include a
26 statement of the amount of the arrearage and any reasons for the
27 arrearage known by the probation officer. The probation officer

1 shall immediately provide a copy of the report or petition to the
2 prosecuting attorney. If a petition or motion is filed or other
3 proceedings are initiated to enforce payment of restitution and the
4 court determines that restitution is not being paid or has not been
5 paid as ordered by the court, the court shall promptly take action
6 necessary to compel compliance.

7 (16) If the court determines that a defendant who is ordered
8 to pay restitution under this section is remanded to the
9 jurisdiction of the department of corrections, the court shall
10 provide a copy of the order of restitution to the department of
11 corrections when the court determines that the defendant is
12 remanded to the department's jurisdiction.

13 (17) The court shall not impose a fee on a victim, **THOSE**
14 **ENTITLED TO INHERIT THE** victim's estate, or prosecuting attorney
15 for enforcing an order of restitution.

16 (18) If a person or entity entitled to restitution under this
17 section cannot be located, refuses to claim the restitution within
18 2 years after the date on which he or she could have claimed the
19 restitution, or refuses to accept the restitution, the restitution
20 to which that person or entity is entitled shall be deposited in
21 the crime victim's rights fund created under section 4 of 1989 PA
22 196, MCL 780.904, or its successor fund. However, a person or
23 entity entitled to that restitution may claim that restitution any
24 time by applying to the court that originally ordered and collected
25 it. The court shall notify the crime victim services commission of
26 the application and the commission shall approve a reduction in the
27 court's revenue transmittal to the crime victim's rights fund equal

1 to the restitution owed to the person or entity. The court shall
2 use the reduction to reimburse that restitution to the person or
3 entity.

4 (19) The court may amend an order of restitution entered under
5 this section on a motion by the prosecuting attorney, the victim,
6 or the defendant based upon new information related to the injury,
7 damages, or loss for which the restitution was ordered.

8 (20) A court that receives notice that a defendant who has an
9 obligation to pay restitution under this section has declared
10 bankruptcy shall forward a copy of that notice to the prosecuting
11 attorney. The prosecuting attorney shall forward the notice to the
12 victim at the victim's last known address.

13 (21) If the victim is a minor, the order of restitution shall
14 require the defendant pay to a parent of the victim an amount that
15 is determined to be reasonable for any of the following that are
16 actually incurred or reasonably expected to be incurred by the
17 parent as a result of the crime:

18 (a) Homemaking and child care expenses.

19 (b) Income loss not ordered to be paid under subsection
20 (4) (h).

21 (c) Mileage.

22 (d) Lodging or housing.

23 (e) Meals.

24 (f) Any other cost incurred in exercising the rights of the
25 victim or a parent under this act.

26 Enacting section 1. Sections 16b and 80 of the William Van
27 Regenorter crime victim's rights act, 1985 PA 87, MCL 780.766b and

1 780.830, are repealed.

2 Enacting section 2. This amendatory act takes effect 90 days
3 after the date it is enacted into law.

4 Enacting section 3. This amendatory act does not take effect
5 unless all of the following bills of the 98th Legislature are
6 enacted into law:

7 (a) Senate Bill No. 874.

8

9 (b) Senate Bill No. 875.

10

11 (c) Senate Bill No. 876.

12

13 (d) Senate Bill No.____ or House Bill No.____ (request no.
14 01052'15).

15 (e) Senate Bill No.____ or House Bill No.____ (request no.
16 01053'15).

17 (f) Senate Bill No. 877.

18